

**Minutes of the Carlisle Board of Health
May 8, 2014**

Present: Bill Risso (Chairman), Catherine Galligan, Donna Margolies; Vallabh Sarma was absent and Lee Storrs had not been sworn in after the election. Also present: Linda Fantasia, Health Agent, Alex Brewster (Mosquito);

MINUTES – It was moved (Galligan) and seconded (Margolies) to approve the minutes of 4/22/14 as amended. Motion passed 3-0-0.

BILLS – Nursing, Well Inspections, Food Establishment inspections. The well inspector's invoice was based on the old fees since there was not enough time to publicize the new rates before the work. It was moved (Galligan) and seconded (Margolies) to approve the bills as presented for payment. Motion passed 3-0-0.

ADMINISTRATIVE REPORTS

Bruce Freeman Trail – The Board had received a copy of an Environmental Notification Form submitted to the Mass. Environmental Policy Act office (MEPA) for the construction of a pedestrian and bicycle pathway over a 4.88 mile of abandoned rail, a portion of which lies in Carlisle. The project includes storm water drainage, wildlife crossings, bridges, culvert repairs, parking and signage. The Board did not find a public health or environmental issue that warranted comment.

Region 4A Table Top Exercise - To be held 5/14/14 on an infectious disease outbreak; Risso, Fantasia, Lyman and David Estabrook (intern) will attend.

Health Medical Coalition Coordination – The Dept. of Public Health (DPH) has decided to level fund public health for Budget Period 3. DPH has agreed to pay for a facilitator to help with the merger of Regions 4A and 4B. The Regions are looking for mediator recommendations.

Pure 7 Chocolate - The bedroom deed restriction was recorded and renovations have begun. The kitchen plan review took 2 hours. A pre-opening inspection is required. The applicant is waiting for the Board to decide on an appropriate fee.

DISCUSSION ITEMS

Benfield Farms – The Board had received an opinion from town counsel relative to the town having access to the escrow account. Counsel advised that the security funding as currently set up is not an escrow account as it is conventionally used. However under the permit condition that the security must be in a form that is satisfactory to the Board, the Board would have the authority to require an escrow account held by the town if that is what it wants. Counsel also pointed out that there may be an unintended contradiction due to a subsequent provision giving Benfield Farms direct access to a short term (25% of replacement costs) amount. Dual access would not qualify as an “escrow” account. Counsel said that it is up to the Board whether to insist on a different form for the account. This could be done by modifying the permit conditions.

Risso felt that NOAH, the developer, had met all of the conditions as currently stated. The account has been fully funded and there is no reason to believe that it would not be used for its intended purposes. Storrs was concerned about the direct withdrawals of the short term fund since there was no notification requirement. Dual signatures would have been preferred; that way the town would know what was being withdrawn and for what. Risso would have preferred an initial 25% funding placed in an escrow account held by the town with the remaining 75% funded over a 15 year time frame in a reserve account accessible by the operator. Galligan liked this arrangement for future developments. Risso said the Board should draft a policy and have it reviewed by town counsel before any new developments apply.

The Board agreed to accept the special septic reserve account as currently set. NOAH will be notified of the Board's decision.

The remaining items for a Certificate of Compliance include a final review of the Operations Manual (O&M) and fees. Frado and Fantasia are reviewing the O&M. Fantasia said the January/February expenses have been paid. March is still pending.

81 Russell Street – DEP issued a Site Approval for the Public Water Supply on 5/5/14. A proposed pumping test was also approved and must be conducted within two years. The consultant for the project is Provencher Engineering. The project includes 16 residential senior housing units. Using Title 5 design flows of 150 gpd/unit, the project requires 2400 gpd of water. The Zone I is calculated at 157' and the Interim Wellhead Protection Area (IWPA) at 453'. The project will be built on 11.95 acres of a 34.27 parcel. The remaining land will be open space under a conservation restriction. A 48-hour pumping test is proposed although DEP recommends a five day flow test. If a higher yield is obtained the additional water could be used for irrigation. This would increase the Zone I. The Board had asked that there be no irrigation. Fantasia had conveyed this to James Persky of DEP who said that DEP does not regulate irrigation. The Board also wanted any additional private wells to be counted in the withdrawal, but DEP leaves this up to the local authorities. The project will need a private well for the fire cistern and there is an existing well that if not used, will need to be decommissioned. Fantasia said the discharge from the pumping test is to a tributary of Spencer Brook. The Conservation Commission was unaware of this and will look into it.

The Special Permit request is still in public hearings before the Planning Board. No septic plans have been submitted to the Board of Health.

1075 CURVE STREET – Title 5 Non-Compliance. Present: Debra Hussey (owner), Matt Harkins (Builder)

Fantasia provided the Board with a chronology of events and a brief summary to explain the non-compliance. The violation involves a failure to comply with the conditions of two Title 5 variances granted by the Board in 2011 for an addition within the Title 5 required setbacks to the septic tank and leaching area (10' and 20' required, 6' and 14' provided, respectively). In order to meet the threshold of local upgrade approval, the Board required conditions to that would provide equivalent protection of a fully compliant system including the installation of a below ground polybarrier, a construction plan, field inspections, an as-built and waterproofing of the new foundation. The Board's consultant recommended the poly barrier due to the sandy soils. The Board extended the barrier along a proposed foundation drain to protect groundwater. A public hearing was held on 5/10/11 and the variances were approved contingent upon satisfying the conditions. Work on the addition began and an occupancy permit was issued by the Building Dept. in September of 2011 but the Title 5 conditions were never completed.

The owner agreed she got the Board's Letter of Approval listing the conditions but did not know what to do with it. Stamski & McNary (SMI) also received the letter but typically wait to be notified by the builder or owner when work started. The Building Dept. received a copy but issued an Occupancy Permit without checking that Board's conditions had been satisfied. The builder was not copied on the letter because the Board had no way of knowing who would eventually be hired. The property owner has the legal responsibility to make sure contractors are aware of permit conditions.

When the Board was reviewing its active permits in 2013, it realized that the addition had been built but the work had not been done on the septic system, particularly the installation of the poly barrier. The Board sent a Notice of Non-Compliance to the owner because the septic system had an illegal status. The owner responded and agreed to have the work done immediately. In September SMI contacted the Board of Health office to verify that the foundation had been waterproofed and that the barrier would be installed. In December the builder called about doing the work but since this was the winter shut down and Rob Frado preferred that they not dig around the system in the winter it was agreed the installation should wait until spring.

On May 6, 2014 the installer requested an inspection of the barrier. There was no Plan of Record for him to sign out because the construction plan had never been submitted. SMI prepared a plan on 5/6/14 which was reviewed by Frado. The plan included construction notes for the barrier but no profile view. The Board's chairman gave permission for the work on the barrier to proceed but required the owner to meet with the Board to discuss the issue of Non-compliance. Fantasia noted that a Title 5 Inspection was done on 3/14/14 and the system passed which was

incorrect since it did not meet the conditions of the variances. If the property had been sold without the poly barrier, the new owner would have been responsible for correcting the problem.

Board members discussed the timelines involved and questioned why the work was not done originally or as soon as the deficiency was noted. Hussey said there were scheduling problems. The Board agreed that professional contractors should recognize the importance of permit conditions even if the homeowner does not. Hussey said that after being away all summer she returned in the fall and the addition was complete. She had a sign off from the Building Department and thought that was all that was needed. The Board pointed out that the variances granted were state variances, not local. These need to be taken more seriously. The Board was concerned that the addition was up for almost three years but the protections for the system had not been done. It was difficult for the Board to understand the continued delays. Fantasia said the installer has taken out a license, Frado has approved the plan and work is scheduled for Friday. The installer paid a Special Request fee for expediting the inspection by the Board's consultant. SMI has staked the field and tank and will prepare the as-built drawings.

Risso noted that the Board could issue a \$300 per day fine for the non-compliance. Calculating the time from the issuance of the Occupancy Permit amounts to over \$200,000. The Board has no intention of imposing such a fine but feels that there should be some accountability. Hussey said it was an honest mistake. Galligan felt that contractor should have known better. Harkins said he was unaware of the Board's letter. Fantasia explained that the letter was issued to the owner, engineer and Building Dept. There is no way for the Board to know who will be doing the construction work. Risso said the conditions should be listed on the construction plans. This would make it clear to all contractors. Harkins was asked how he knew to waterproof the foundation. He said this was standard business practice.

The Board thought that a fine could only be issued to the legal property owner. Storrs agreed that the delays were probably not intentional on the part of the owner but there was a breakdown in communication. Galligan was disappointed that the professional companies (engineering firm, builder) did not do a better job. She felt any fines should be assessed to the responsible party. Hussey said she had paid all of the contractors in full including the engineering firm. Risso emphasized the importance of the conditions, not only to protect the homeowner's property but groundwater in the area. Breakout from the leaching area could impact a neighboring well if connected to the foundation drain which could act as a conduit. He also noted that although the Title 5 Inspector failed to identify the missing conditions, he would be reluctant to issue a fine to the inspector. Fantasia said inspectors will check the record for component locations, but not necessarily a complete file review. The Board also agreed that the town's Building Inspector should have addressed the conditions before issuing an Occupancy Permit. Galligan said she sympathized with the homeowner and would like to see the Board maintain a list of unsatisfactory work to help homeowners when choosing a contractor. Fantasia noted that a good deal of staff time has gone into dealing with the situation and Rob Frado has had to accommodate special requests. There have been costs to the town for the additional work. A fine would help to compensate the town since the money would go back to the General Fund which pays for salaries.

The Board agreed that the professional companies involved should be contacted by letter and informed that the Board was not pleased with the work. This would include Stamski & McNary and the Title 5 Inspector. The Board would like to maintain such letters in a log for homeowners to reference but asked Fantasia to check with the town administrator and town counsel first. Harkins asked if he would be included and the Board said he would not since he was unaware of the conditions. Risso reminded the Board that a previous discussion on issuing fines suggested by former chairman Jeff Brem would require the fine to be paid upon issuance of a notice of violation. The party fined could then appeal to the Board to have the fine rescinded.

The Board agreed that its policy on fines needs to be better defined. The Board will draft a policy which will include how to handle professional companies and contractors as well as homeowners. The Board will also explore maintaining a log of complaints. The Board asked Fantasia to check with other towns on how and when they issue fines.

Tick Testing – The Board reviewed the latest results from the U. Mass. Amherst Laboratory of Medical Zoology (LMZ). Carlisle had filled its spring quota of 50 tick submissions. Residents could pay a reduced rate of \$50 for the three tests. The Middlesex Tick Task Force (MTTF) had met earlier in the day and agreed that it did not make sense

to shut the program down after the initial 50 submissions. Each town has a quota of 100. The second half of the program would not open up until July 30th. A lot of time and effort and been spent in ramping up the program and residents were frustrated to be left out. MTTF agreed to instruct LMZ to keep the program open until a town reached 100. MTTF will also consider a redistribution of tick testing quotas in late summer and early fall. The latest Carlisle results showed 53.49% of tested ticks were infected with *Borrelia burgdorferi* (Lyme), 2.33% with *Anaplasma* and 11.63% for *Babesia*. Approximately 11% of the ticks had co-infections. A number of tests were still pending. Fantasia noted issues with the data retrieval on the website. LMZ will be looking into improving the reporting and streamlining the submission form. Residents have expressed great interest in the tick testing program. Fantasia said the Steering Committee for the program will be looking into ongoing funding to keep the program sustainable. Many towns pay for a Mosquito Control Program (MCP). A portion of the funds might be directed toward tick testing since Tick Borne Disease (TBD) has a much greater impact on residents than West Nile Virus or EEE. Another suggestion was a revolving account such as the Board's Health Account which could be replenished each year. The Board questioned the purpose of continuing to test ticks and if the money spent would have a value added component. Residents already know that there are a lot of ticks and that they carry disease. Continuing to track the disease burden does not prevent the disease or improve treatment. Passive surveillance has its limits especially when funding sources are very limited.

Risso, Margolies and Fantasia attended the recent "Let's Talk About Ticks" presentation in Lincoln. Dr. Alfred DeMaria of the State Laboratory, Kurt Upham of Oh Deer and Dr. Stephen Rich of LMZ were the guest speakers. The program was very informative covering the ecology of tick borne diseases, prevention and tick testing. It was sponsored by the MTTF.

MTTF was contacted about a possible internship. The individual is an R.N., has a Master's Degree in Public Health and is enrolled in a Public Health Ph.D. program. It was suggested that she might work with Carlisle's Lyme Disease Subcommittee on contacting area physicians to see how they diagnose and treat TBD. The Westford Health Director would be interested in working on a joint project. Margolies said that area doctors seem to have a greater understanding of TBD than a few years ago and are now much more responsive to patient complaints.

New Business: Margolies asked about the Drug Take Back collection at the Police Station. Fantasia said that it is ongoing but entirely administered by the Drug Enforcement Agency.

Upcoming Dates: The Hazardous Waste Collection will be held 5/31/14 from 9-12 at the DPW Facility. Sharps will be collected but must be in an approved container sealed with tape. Board members volunteered to work the collection. Should it rain, the Board will use the MRC Canopy over the sharps boxes.

There was no further business. Meeting voted to adjourn at 8:45 pm.

Respectfully submitted,

Linda M. Fantasia, Recorder